

**BEFORE THE
FEDERAL ELECTION COMMISSION**

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OFFICE OF GENERAL
COUNSEL

Ray Buckley
New Hampshire Democratic Party
105 N. State Street
Concord, NH 03301

Complainant,

v.

MUR # 6503

Frank Guinta
P.O. Box 877
Manchester, NH 03105,

Respondent.

COMPLAINT

Complainant files this complaint under 2 U.S.C. § 437g(a)(1) against Frank Guinta, requesting that the Federal Election Commission investigate violations of the Federal Election Campaign Act, as described below.

A. FACTUAL ALLEGATIONS

Frank Guinta is a Member of Congress from New Hampshire's First Congressional District. On April 14, 2011, he filed a statement of candidacy with the FEC indicating his intent to run for reelection in 2012.

The Republican Governors Association ("RGA") is a political organization described in section 527 of the Internal Revenue Code and registered with the Internal Revenue Service.

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According to its IRS filings, it accepts contributions well in excess of the federal contribution limits, and from federally impermissible sources.¹

According to a recent press account, Rep. Guinta recently solicited \$100,000 from the RGA for the Republican Party of New Hampshire (the "State Party"). On August 26, 2011, the *New Hampshire Union Leader* reported that, on August 18, 2011, the chairman of the State Party had a conference call with Guinta, Senator Kelly Ayotte, and others, in which the attendees discussed the chairman's mismanagement of the State Party and its impact on the State Party's fundraising. During that call, the participants stated that they had been trying to raise money for the party, but that donors did not want to contribute because the party was "being ineptly run."²

Specifically, during the call, "Guinta mentioned that he had contacted several national groups for money and that he had been hoping to get up to \$100,000 from the Republican Governors Association." However, Guinta told the group that the RGA had concerns about the State Party's management. The state House speaker, William O'Brien, also stated on the call that "he had been told by Guinta that the RGA had refused a donation request."³

B. LEGAL ARGUMENT: GUINTA SOLICITED SOFT MONEY IN CLEAR VIOLATION OF FEDERAL LAW.

The Federal Election Campaign Act, as amended by the Bipartisan Campaign Reform Act of 2002, prohibits federal candidates and officeholders from soliciting, directing, or transferring, or spending funds in connection with an election that are outside the federal source

¹ See Republican Governors Association Form 8872, available at www.irs.gov.

² John DiStaso, *GOP officials told Kimball donors were concerned about "disarray"*, N.H. Union Leader, Aug. 26, 2011, available at http://www.unionleader.com/article/20110826/NEWS06/110829896&source=RSS?utm_source=twitterfeed&utm_medium=twitter.

³ *Id.*

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restrictions and limits. 2 U.S.C. § 441i(e)(1); 11 C.F.R. §§ 300.61, 300.62. Under those limits, federal candidates and officeholders may solicit up to \$10,000 per year from federally permissible sources – such as individuals and federal multicandidate committees – for the federal and nonfederal accounts of a state party. *See, e.g.*, FEC Adv. Op. No. 2005-02. They are prohibited by law from soliciting or directing funds in excess of these amounts, or from impermissible sources. Commission rules define "to solicit" broadly as "to ask, request, or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value." 11 C.F.R. § 300.2(m). A solicitation includes any "communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value." *Id.*

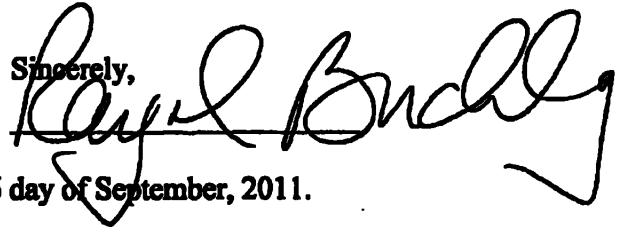
A violation of this provision can be fined up to the amount of the contribution, or twice that amount, if the violation was knowing and willful. 2 U.S.C. § 437g(a)(5), (6). Knowing and willful violations are also punishable criminally. *Id.* § 437g(d).

As the press reports indicate, Rep. Guinta personally solicited illegal funds for the State Party. Rep. Guinta's own remarks show that he solicited a contribution of up to \$100,000 from the RGA, as well as contributions from other groups, for the State Party. The solicited contribution would have exceeded the federal limits, and would have consisted of federally impermissible funds, including corporate treasury funds. This is an egregious violation of the law, for which Guinta is personally liable.

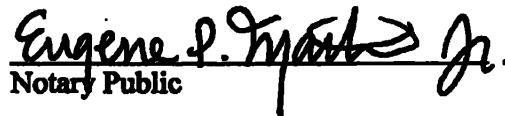
C. REQUESTED ACTION

For the reasons described above, I respectfully urge the Commission to investigate this matter immediately. Furthermore, the Commission should investigate whether Guinta's violation

was knowing and willful. I further request that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,


SUBSCRIBED AND SWORN to before me this 26 day of September, 2011.


Notary Public

My Commission Expires:



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